

(b) Service contracts are awarded and administered in a manner that will provide the customer its supplies and services within budget and in a timely manner;

(c) Specific procedures are in place before contracting for services to ensure compliance with OFPP Policy Letters 92–1, Inherently Governmental Functions, 91–2, Service Contracting, and 89–1, Conflicts of Interest Policies Applicable to Consultants; and

(d) Strategies are developed and necessary staff training is initiated to ensure effective implementation of the policies in 37.102.

#### **37.504 Contracting officials' responsibilities.**

Contracting officials should ensure that "best practices" techniques are used when contracting for services and in contract management and administration (see OFPP Policy Letter 93–1).

### **Subpart 37.6—Performance-Based Contracting**

SOURCE: 62 FR 44815, Aug. 22, 1997, unless otherwise noted.

#### **37.600 Scope of subpart.**

This subpart prescribes policies and procedures for use of performance-based contracting methods. It implements OFPP Policy Letter 91–2, Service Contracting.

#### **37.601 General.**

Performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed meet contract standards. Performance-based contracts—

(a) Describe the requirements in terms of results required rather than the methods of performance of the work;

(b) Use measurable performance standards (*i.e.*, terms of quality, timeliness, quantity, etc.) and quality assurance surveillance plans (see 46.103(a) and 46.401(a));

(c) Specify procedures for reductions of fee or for reductions to the price of a fixed-price contract when services

are not performed or do not meet contract requirements (see 46.407); and

(d) Include performance incentives where appropriate.

#### **37.602 Elements of performance-based contracting.**

##### **37.602–1 Statements of work.**

(a) Generally, statements of work shall define requirements in clear, concise language identifying specific work to be accomplished. Statements of work must be individually tailored to consider the period of performance, deliverable items, if any, and the desired degree of performance flexibility (see 11.105). In the case of task order contracts, the statement of work for the basic contract need only define the scope of the overall contract (see 16.504(a)(4)(iii)). The statement of work for each task issued under a task order contract shall comply with paragraph (b) of this subsection. To achieve the maximum benefits of performance-based contracting, task order contracts should be awarded on a multiple award basis (see 16.504(c) and 16.505(b)).

(b) When preparing statements of work, agencies shall, to the maximum extent practicable—

(1) Describe the work in terms of "what" is to be the required output rather than either "how" the work is to be accomplished or the number of hours to be provided (see 11.002(a)(2) and 11.101);

(2) Enable assessment of work performance against measurable performance standards;

(3) Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work; and

(4) Avoid combining requirements into a single acquisition that is too broad for the agency or a prospective contractor to manage effectively.

##### **37.602–2 Quality assurance.**

Agencies shall develop quality assurance surveillance plans when acquiring services (see 46.103 and 46.401(a)). These plans shall recognize the responsibility of the contractor (see 46.105) to carry